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February 27, 1997

VIA FEDERAL EXPRESS

Federal Communications Commission
Secretary's Office
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

RECEIVED
FEB 28 1997
FCC MAIL ROOM

RE: In the Matter of Closed Captioning and Video Description of Video Programming,
Implementation of Section 305 of the Telecommunications Act of 1996, Video
Programming Accessibility

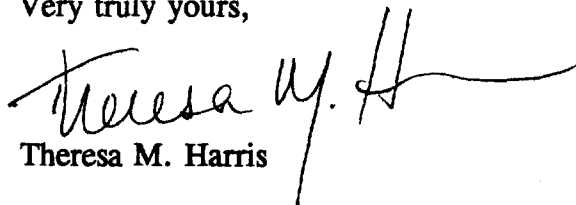
MM Docket No. 95-176

To Whom it May Concern:

Enclosed and served upon you please find the comments of the member cities of the
Southwest Suburban Cable Commission, and the City of St. Charles, Missouri, to the Notice
of Proposed Rulemaking on the above-entitled matter.

If you have any questions regarding this filing, please contact me at the above direct dial
number.

Very truly yours,


Theresa M. Harris

TMH:mj:637220
Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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COMMENTS ON THE NOTICE OF PROPOSED RULEMAKING

I. INTRODUCTION

The Federal Communications Commission ("FCC") has requested comments on its Notice of Proposed Rulemaking, FCC 97-4, in the above-captioned proceeding, released January 17, 1997 ("Notice") on closed captioning of video programming to improve access to such programming by the hearing impaired. We are submitting these comments on behalf of our clients, the Southwest Suburban Cable Commission which represents the cities of Edina, Eden Prairie, Hopkins, Minnetonka, and Richfield, Minnesota on cable and telecommunications issues, and the City of St. Charles, Missouri ("the Cities"). The Cities recommend that public, educational, and governmental ("PEG") access programming be exempt from the closed captioning requirements based upon the substantial economic burden these requirements would impose upon cities and access producers.

The Cities have substantial experience with public, educational, and governmental access programming. In 1996, the cities of Eden Prairie, Edina, Minnetonka, Richfield, and

Hopkins, Minnesota renewed requirements for three access channels and a public access programming facility in their new franchise documents. Each city receives one public, one educational, and one governmental access channel. The cable operator assists residents in producing programs for the public access channel, the schools provide programming for the educational access channel, and the city governments produce programming for the governmental access channel. The City of St. Charles, Missouri has one channel for cablecasting educational and governmental access programming.

PEG access programming is produced and cablecast to serve the public, not to earn revenue. Most cities support PEG access through their city budgets and franchise fees. Most access channels do not generate revenue. In keeping with the public interest focus of PEG access, the Cities generally do not use the channels to solicit funds to provide PEG access programming, they fund the programming through franchise fees and municipal budgets. These budgets are very limited.

The FCC, through its Notice, seeks to implement Section 713 of the Telecommunications Act of 1996 and "maximize" the amount of closed captioned video programming available. The Notice reflects Congress' goal of ensuring "that all Americans ultimately have access to video services and programs, particularly as video programming becomes an increasingly important part of the home, school and workplace."¹ In its Notice, the FCC states that it seeks to place the responsibility for closed captioning on the video programming providers.²

¹ H.R. Report 104-458, 104th Cong., 2d Sess. (1996).

² Notice at ¶ 28.

Based upon the economic burden, the FCC can exempt certain classes of programs or services from the closed captioning rules.³ The Notice specifically references a suggestion to exempt PEG access programming due to the relatively small production budgets.⁴

We agree that the FCC's goal of providing the hearing impaired with access to video programming is very important. We also believe, however, that without a funding mechanism, a requirement for closed captioning of PEG access programming would make PEG access programming unaffordable for most PEG access providers. PEG access programming merits an exemption because it is local, non-commercial programming that is provided on an extremely limited budget. The benefit of providing closed captioning for such programming is outweighed by the potential loss of these services due to the overwhelming costs of closed captioning.

II. COST OF CLOSED CAPTIONING TO THE CITIES

In the Notice, the FCC identifies a wide range of costs for closed captioning. "Off-line" captioning for pre-recorded programming ranges from \$800 to \$2500 per hour. "Real time" captioning for live programming ranges from \$120 to \$1200 per hour. Other forms of captioning range from \$400 to \$5000 per hour.⁵ These rates make it unfeasible for most cities to cablecast substantial numbers of PEG access programs.

The City of Hopkins provided information on its current governmental access programming. The City of Hopkins currently cablecasts three meetings every month, two

³ Id. at ¶ 63.

⁴ Id. at ¶ 74.

⁵ Id. at ¶¶ 20-22.

HRA/City Council meetings, and a Zoning and Planning Commission meeting, totalling about ten hours of live programming per month. The meetings are also taped and replayed several times. Currently, the City spends about \$1400 per year to cablecast these meetings.

Providing closed captioning for the above meetings at \$500 per hour would cost the city approximately **\$60,000** per year for governmental access programming. This figure almost equals the total amount of cable franchise fees that the city receives in a year. A majority of these franchise fees are utilized to purchase equipment and support the cable communications coordinator who provides the city's government access programming. If the cost of closed captioning costs were \$1200 per hour, the City of Hopkins would spend close to **\$1.4 million dollars** a year to cablecast governmental access programming. These costs are only for governmental access programming and ignore the numerous hours of educational and public access programming that are also cablecast on behalf of the city.

Additionally, many cities receive programming for their public, educational, and governmental access channels from a variety of sources including state associations, government offices, non-profit organizations, religious groups, residents, etc. The Cities must either provide closed captioning for that programming, or reject all programming that does not already received closed captioning. Public access programming would be especially vulnerable if all programmers were required to provide closed captioning for their programs.

A closed captioning requirement for PEG access programming may force the Cities to make very difficult choices. If the Cities cannot appreciably expand their current budgets they would have to either eliminate other PEG access programs and services, or limit the number of programs that are cablecast, diminishing the quality of the programming that their

residents receive. For cities that do not want to eliminate PEG access programming or services, other budget areas must be sacrificed.

It may be difficult for cities to raise additional funds for PEG access programming outside of the municipal budget. Charging fees to residents or schools for the use of the public or educational access programming facilities may limit usage to those who can afford it. Inviting advertising or other commercial uses of PEG access channels could raise many troublesome issues. Many cities are committed to providing non-commercial programming on their PEG channels. Some states, such as Minnesota, restrict PEG access programming to "non-commercial" programming. If one commercial programmer is allowed to provide programming on the access channels, the first amendment may limit the city's ability to restrict the number of commercial programs, thus diluting the value of the programming on the PEG access channels.

III. NO PEG ACCESS PROGRAMMING SHOULD REQUIRE CLOSED CAPTIONING

In the Notice, the FCC questions whether closed captioning should be required for certain types of PEG access programming such as educational or governmental access programs, referencing the high value of governmental, educational, and community information.⁶ We agree that governmental, educational, and community information have a very high value for the residents of the Cities. A requirement for captioning on any category of PEG access programming, however, will effectively limit the amount and quality of PEG access programming.

⁶ Id. at ¶ 74.

The funds for all types of PEG access programming are limited. Because of the wide variety of demands and expectations that citizens place on city government, a city will find it difficult to allocate additional funds from the city budget for captioning of public or governmental access programming. The schools also must serve a variety of student needs making it unlikely that additional funds will be allocated for the cost of closed captioning of educational access programming. Rather than limiting the number of PEG access programs to provide captioning, because of the extraordinary costs, many PEG access providers may forego PEG access programming entirely and provide funding for other services.

IV. CONCLUSION


The programming provided on the public, educational, and governmental access channels is uniquely local programming that is not found elsewhere in video programming. Local governments laud the efforts of the Congress and the FCC to allow as many individuals as possible to receive and understand video programming. A requirement for closed captioning without a funding mechanism, however, will force many cities to discontinue or severely limit PEG access programming because of the cost. Imposing closed captioning requirements on cities could deprive all citizens of the opportunity to receive local PEG access programming because of the unique economic burden. The economic burden placed on PEG access providers by closed captioning requirements clearly outweighs the benefits that may be received by a few residents.

Based upon the comments above, we strongly recommend that the FCC provide an exemption for PEG access programming from the closed captioning requirements.

Respectfully submitted,

THE SOUTHWEST SUBURBAN CABLE
COMMISSION

THE CITY OF ST. CHARLES, MISSOURI

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